

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 7/24/2012	(3) CONTACT/PHONE Terry Wahler, Senior Planner / 805-781-5621	
(4) SUBJECT County-initiated Notice of Nonrenewal of Land Conservation Contract for the Daniel Jung property (AGP2008-00009) - Supervisorial District No. 1.			
(5) RECOMMENDED ACTION The Agricultural Preserve Review Committee recommends to the Board of Supervisors approval of this request to serve the property owner with a county-initiated notice of non-renewal.			
(6) FUNDING SOURCE(S) Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation {X} Hearing (Time Est. <u>30</u>) { } Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS { } Resolutions { } Contracts { } Ordinances { } N/A {X} Other (Notice)			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5th's Vote Required {X} N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY {X} N/A Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW Reviewed by Leslie Brown			
(18) SUPERVISOR DISTRICT(S) District 1			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Terry Wahler, Senior Planner

VIA: Ellen Carroll, Environmental Coordinator

DATE: 7/24/2012

SUBJECT: County-initiated Notice of Nonrenewal of Land Conservation Contract for the Daniel Jung property (AGP2008-00009) - Supervisorial District No. 1.

RECOMMENDATION

The Agricultural Preserve Review Committee recommends to the Board of Supervisors approval of this request to serve the property owner with a county-initiated notice of non-renewal.

DISCUSSION

Introduction

The 13.68 acre Daniel Jung property is located approximately one mile northeast of the community of Shandon on Highway 46 and is currently used as a rural home site. This separate legal parcel was part of a 2,618 acre ranch that has been under a Williamson Act land conservation contract since 1972, but was conveyed as a separate parcel to Daniel Jung in March of 2011.

Although the Jung property is still under the land conservation contract because contracts run with the land, it is not being used for commercial agriculture as required by the contract. The parcel is not in compliance with the provisions of the land conservation contract and is too small to re-qualify for the Williamson Act program under current eligibility standards.

Background

Shandon Agricultural Preserve Number 1 was established on July 19, 1971 by Resolution No. 71-319. The property was placed under a land conservation contract on January 24, 1972 (Volume 1650, pages 673 through 687). The contract has a 40 acre minimum parcel size provision for subdivision as well as conveyance of existing parcels. The original property under contract consisted of 2,618 acres in two discontinuous areas, one portion along Highway 46 typically used for irrigated agriculture with a 40 acre minimum parcel size and the other larger portion used for rangeland with a 640 acre minimum parcel size.

The subject of the contract compliance research is limited to the parcels along Highway 46 that are subject to the 40 acre minimum parcel size provision. These parcels were conveyed to three different owners. The two other properties are compliant with the land conservation contract because they are both larger than 40 acres and are being actively used for irrigated alfalfa, dry farming and grazing. The Assessor staff identified the 13.68 acre property as a potential contract violation and notified Planning Department staff so that the parcel could be evaluated for contract compliance.

Contract Breach

Paragraph 3 of the land conservation contract covering the site contains the following statement:

The subject property is currently zoned A-3-40-P and A-3-640-P.

The second number of this provision in the older land conservation contracts is equivalent to the minimum parcel size provision in the current standard form contracts. The property, at 13.68 acres is well below the 40 acre minimum parcel size in the contract and is not maintaining commercial agriculture on site, also a requirement of the contract.

Paragraph 13 of the land conservation contract includes the following:

Any conveyance, contract or authorization (whether oral or written) by Owner or his successors in interest which would permit use of the above-described premises contrary to the terms of the terms of the Contract may be declared void by the County Board of Supervisors; such declaration or the provisions of this Contract may be enforced by the County by an action filed in the Superior Court of the County for the purposes of compelling compliance or restraining breach thereof.

Remedies

Your Board could consider petitioning the court to rescind the separate sales of this property, however this approach would be expensive, time consuming and would penalize the other land owners in the contract that are not in violation of their contracts.

Compliance with the agricultural Preserve Rules of Procedure

The basis for the proposal to serve the notice of nonrenewal of land conservation contract on the owner is indicated in section B.7.c(3)(a) of the Rules of Procedure as follows:

- (3) Mandatory Filing. The county shall serve notices of nonrenewal of land conservation contracts on property owners if the Board of Supervisors through a public hearing finds that the conditions under which they originally qualified for the agricultural preserve program have been substantially diminished as indicated by the following:
 - (a) Conveyance of an existing parcel or parcels to new landowners that are smaller than the minimum parcel size applied to the agricultural preserve in cases where the contract (for preserves established prior to 1972) does not specifically prohibit such conveyances.

Due to the conveyance of the major portion of the ranch to other landowners, the conditions under which the property originally qualified have been greatly diminished.

The remaining 13.68 acre parcel from the original contracted ownership is not large enough to sustain commercial agricultural use. Therefore, a notice of nonrenewal of contract for this remainder parcel should be served on the owner.

Agricultural Preserve Review Committee

Staff scheduled a meeting of the Agricultural Preserve Review Committee (APRC) for their review and recommendation on the proposed notice of nonrenewal. The property owner was notified of the APRC meeting but did not attend.

The following is an excerpt from the Minutes of the Regular Meeting of the Agricultural Preserve Review Committee held on April 20, 2009 at the U.C. Cooperative Extension Auditorium, San Luis Obispo, California, at 1:30 p.m.

AGP2008-00009 - County initiated notice of nonrenewal

Terry Wahler, staff: presents reasoning for county initiated notice of nonrenewal recommendation.

Warren Hoag: provides members with the location of subject property.

Lynda Auchinachie: speaks to expenses and would like to know if there are fines associated with this or any other remedies with Mr. Hoag responding the property owner will no longer have the tax benefit, and defers to Michael Garcia for further input.

Michael Garcia, Assessor: states if the property owner contests the APRC recommendation there is a 4 year waiting period. States current legislation is being tracked which will remedy a problematic situation with protests.

Lynda Auchinachie: asks what is involved when someone contests a decision.

Jim Orton, County Counsel: explains the applicant can file a protest and then they will have a hearing before the Board of Supervisors (BOS).

Jennifer Anderson from the Farm Service Agency is now present. States she is abstaining from voting on this item due to her late arrival and not having the opportunity to hear this item.

Following the discussion, Tom Rice moved to recommend to the Board of Supervisors recordation of a county initiated partial notice of nonrenewal for the Kim (Jung) property. This motion was seconded by Ed Carson, and carried (unanimously) on a 9-0 vote, with the Ag. Liaison Committee, Cattleman's Assoc., and Farm Bureau members being absent, and the Farm Service Agency abstaining, having missed the beginning of the discussion.

OTHER AGENCY INVOLVEMENT/IMPACT

This county initiated notice of non-renewal was previously reviewed by the Agricultural Preserve Review and recommended for approval. The Agricultural Preserve Review Committee includes representatives from the Agricultural Liaison Committee, the Assessor's Office, the Agriculture Department, the Department of Planning and Building and the Farm Advisor's office. County Counsel reviewed and approved the notice as to form and legal effect.

FINANCIAL CONSIDERATIONS

Terminations of land conservation contracts usually result in increased property taxes for the affected properties and increased property tax revenues for the county. The Assessor's Office evaluated the property with respect to potential property tax impact. It was noted that the parcel is predominately valued as a home site. The assessed value of the land will increase gradually over the remaining nine year term of the contract to approximately \$74,000.00. The property tax increase resulting from the contract termination is estimated to be approximately \$740.00 annually.

RESULTS

The termination of this contract will achieve compliance with the County's Rules of Procedure to implement the California Land Conservation Act of 1965.

ATTACHMENTS

Attachment 1 - Map

Attachment 2 - Notice of Nonrenewal of Land Conservation Contract